



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Permit No. VA0004146

Effective Date: **TBD**

Expiration Date: **TBD**

AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTION DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act as amended and pursuant to the State Water Control Law and regulations adopted pursuant thereto, the following owner is authorized to discharge in accordance with the information submitted with the permit application, and with this permit cover page, and Parts I and II of this permit, as set forth herein.

OWNER:	Virginia Electric and Power Company
FACILITY NAME:	Dominion Chesterfield Power Station
COUNTY:	Chesterfield
FACILITY LOCATION:	500 Coxendale Road

The owner is authorized to discharge to the following receiving stream:

STREAM:	James River
RIVER BASIN:	James River (Lower)
RIVER SUBBASIN:	N/A
SECTION:	1
CLASS:	II
SPECIAL STANDARDS:	bb

Deputy Regional Director, Piedmont Regional Office

Date

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date the permittee is authorized to discharge from outfall serial number 001 – Condenser Cooling Water from Units 7 and 8.

- a. Such discharges shall be limited and monitored as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
	MONTHLY AVERAGE	WEEKLY AVERAGE	DAILY MINIMUM	DAILY MAXIMUM	FREQUENCY	SAMPLE TYPE
(001) Flow (MGD)	NL	NA	NA	NL	Continuous	Calculated
(005) Total Residual Chlorine (µg/L) ⁽²⁾	26	NA	NA	38	1 per Week	Grab ⁽³⁾
(078) Temperature (°F) ⁽⁴⁾	NA	NA	NA	NL	Continuous	Measured
(082) Heat Rejected (BTU/Hour)	Heat rejected shall not exceed a maximum of 11.3×10^8				Continuous ⁽¹⁾	Recorded ⁽¹⁾

“NL” means no limitation is established. Monitoring and reporting, however, are required.

“NA” means not applicable

- (1) The heat rejected calculation requires the following information: The gross turbine-generator loading and the condenser backpressure. These values are continually measured and recorded.
- (2) Also see Special Condition B.4.
- (3) While chlorinating.
- (4) The maximum unit discharge temperature from any of the contributing units shall be reported. The unit discharge temperatures from all units shall be continuously recorded utilizing an existing electronic data storage system (which cannot be calibrated to a NIST reference thermometer).

- b. There shall be no discharge of floating solids or visible foam in other than trace amounts.
- c. Effluent samples shall be collected after dechlorination.

2. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall serial number 002 – Condenser Cooling Water from Unit 3.

a. Such discharges shall be limited and monitored as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
	MONTHLY AVERAGE	WEEKLY AVERAGE	DAILY MINIMUM	DAILY MAXIMUM	FREQUENCY	SAMPLE TYPE
(001) Flow (MGD)	NL	NA	NA	NL	Continuous	Calculated
(005) Total Residual Chlorine (µg/L) ⁽²⁾	26	NA	NA	38	1 per Week	Grab ⁽³⁾
(078) Temperature (°F) ⁽⁴⁾	NA	NA	NA	NL	Continuous	Measured
(082) Heat Rejected (BTU/Hour)	Heat rejected shall not exceed a maximum of 6.52×10^8				Continuous ⁽¹⁾	Recorded ⁽¹⁾

“NL” means no limitation is established. Monitoring and reporting, however, are required.

“NA” means not applicable

- (1) The heat rejected calculation requires the following information: The gross turbine-generator loading and the condenser backpressure. These values are continually measured and recorded.
- (2) Also see Special Condition B.4.
- (3) While chlorinating.
- (4) The maximum unit discharge temperature from any of the contributing units shall be reported. The unit discharge temperatures from all units shall be continuously recorded utilizing an existing electronic data storage system (which cannot be calibrated to a NIST reference thermometer).

b. There shall be no discharge of floating solids or visible foam in other than trace amounts.

c. Effluent samples shall be collected after dechlorination.

3. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall serial number 003 – Condenser Cooling Water from Unit 4, 5, and 6.

a. Such discharges shall be limited and monitored as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
	MONTHLY AVERAGE	WEEKLY AVERAGE	DAILY MINIMUM	DAILY MAXIMUM	FREQUENCY	SAMPLE TYPE
(001) Flow (MGD)	NL	NA	NA	NL	Continuous	Calculated
(005) Total Residual Chlorine (µg/L) ⁽²⁾	11	NA	NA	16	1 per Week	Grab ⁽³⁾
(078) Temperature (°F) ⁽⁴⁾	NA	NA	NA	NL	Continuous	Measured
(083) Heat Rejected (BTU/Hour)	Heat rejected shall not exceed a maximum of 5.55×10^9				Continuous ⁽¹⁾	Recorded ⁽¹⁾

“NL” means no limitation is established. Monitoring and reporting, however, are required.

“NA” means not applicable

- (1) The heat rejected calculation requires the following information: The gross turbine-generator loading and the condenser backpressure. These values are continually measured and recorded.
- (2) Also see Special Condition B.4.
- (3) While chlorinating.
- (4) The maximum unit discharge temperature from any of the contributing units shall be reported. The unit discharge temperatures from all units shall be continuously recorded utilizing an existing electronic data storage system (which cannot be calibrated to a NIST reference thermometer).

b. There shall be no discharge of floating solids or visible foam in other than trace amounts.

c. Effluent samples shall be collected after dechlorination.

4. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall serial number 004 – Old Ash Pond Effluent.
- a. Such discharges shall be limited and monitored as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS						MONITORING REQUIREMENTS	
	MONTHLY AVERAGE		WEEKLY AVERAGE	MINIMUM	MAXIMUM		FREQUENCY	SAMPLE TYPE
	mg/L	kg/d			mg/L	kg/d		
(001) Flow (MGD)	NL		NA	NA	NL		2 per Month	Measured
(002) pH (standard units)	NA		NA	6.0	9.0		2 per Month	Grab
(004) Total Suspended Solids	30 ⁽¹⁾	NL	NA	NA	50 ⁽¹⁾	NL	2 per Month	Grab
(007) Dissolved Oxygen	NA		NA	NL	NA		1 per Month	Grab
(012) Total Phosphorus	2.0	NL	NA	NA	NL	NL	1 per Week	Grab
(039) Ammonia, as N	8.73	NL	NA	NA	12.8	NL	1 per Week	Grab
(059) Total Organic Carbon	NA		NA	NA	110 ⁽¹⁾	NA	1 per Month	Grab
(257) Total Petroleum Hydrocarbons (TPH)	NA		NA	NA	NL	NA	1 per Year	Grab
(500) Oil and Grease	15	NL	NA	NA	20 ⁽¹⁾	NL	2 per Month	Grab
(720) WET Limitation (TU _e) ⁽²⁾	NA		NA	NA	50		1 per Quarter	Grab

"NL" means no limitation is established. Monitoring and reporting, however, are required.

"NA" means not applicable

"1 per Quarter" means one sample taken every calendar quarter, in accordance with the following schedule: 1st Quarter (January 1 – March 31, to be reported on the Discharge Monitoring Report (DMR) due no later than April 10th); 2nd Quarter (April 1 – June 30, to be reported on the DMR due no later than July 10th); 3rd Quarter (July 1 – September 30, to be reported on the DMR due no later than October 10th); 4th Quarter (October 1 – December 31, to be reported on the DMR due no later than January 10th).

“1 per Year” means one sample taken every complete calendar year and reported as part of the DMR due no later than January 10th of the subsequent year.

- (1) Limitation expressed in two significant figures.
- (2) See Special Condition I.B.17.b.

- b. There shall be no discharge of floating solids or visible foam in other than trace amounts.
- c. In addition to any Total Nitrogen or Total Phosphorus concentration limits (or monitoring requirements without associated limits) listed above, this facility has Total Nitrogen and Total Phosphorus calendar year load limits associated with this outfall included in the current Registration List under registration number VAN040086, enforceable under the General VPDES Watershed Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Watershed in Virginia.
- d. Effluent samples shall be collected at the outlet of the Old Ash Pond.

5. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall serial number 104 – Effluent from Metal Cleaning Waste Treatment Basin.
- a. Such discharges shall be limited and monitored as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
	MONTHLY AVERAGE	WEEKLY AVERAGE	MINIMUM	MAXIMUM	FREQUENCY	SAMPLE TYPE
	mg/L			mg/L		
(001) Flow (MGD)	NL	NA	NA	NL	1 per Day	Calculated
(002) pH (standard units)	NA	NA	NL	NL	1 per Day	Grab
(004) Total Suspended Solids	30 ⁽¹⁾	NA	NA	100 ⁽¹⁾	1 per Day	Grab
(019) Total Recoverable Copper	1.0	NA	NA	1.0	1 per Day	Grab
(031) Total Recoverable Iron	1.0	NA	NA	1.0	1 per Day	Grab
(500) Oil and Grease	15	NA	NA	20 ⁽¹⁾	1 per Day	Grab

"NL" means no limitation is established. Monitoring and reporting, however, are required.

"NA" means not applicable

(1) Limitation expressed in two significant figures.

- b. There shall be no discharge of floating solids or visible foam in other than trace amounts.
- c. Effluent samples shall be taken at the outlet of the Metals Cleaning Waste Treatment Basin.

6. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall serial number 005 – New Ash Pond Effluent.
- a. Such discharges shall be limited and monitored as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS						MONITORING REQUIREMENTS	
	MONTHLY AVERAGE		WEEKLY AVERAGE	MINIMUM	MAXIMUM		FREQUENCY	SAMPLE TYPE
	mg/L	kg/d			mg/L	kg/d		
(001) Flow (MGD)	NL		NA	NA	NL		2 per Month	Measured
(002) pH (standard units)	NA		NA	6.0	9.0		2 per Month	Grab
(004) Total Suspended Solids	30 ⁽¹⁾	NL	NA	NA	100 ⁽¹⁾	NL	2 per Month	Grab
(007) Dissolved Oxygen	NA		NA	NL	NA		2 per Month	Grab
(012) Total Phosphorus	2.0	NL	NA	NA	NL	NL	1 per Week	Grab
(500) Oil and Grease	15	NL	NA	NA	20 ⁽¹⁾	NL	2 per Month	Grab

"NL" means no limitation is established. Monitoring and reporting, however, are required.

"NA" means not applicable

(1) Limitation expressed in two significant figures.

- b. There shall be no discharge of floating solids or visible foam in other than trace amounts.
- c. In addition to any Total Nitrogen or Total Phosphorus concentration limits (or monitoring requirements without associated limits) listed above, this facility has Total Nitrogen and Total Phosphorus calendar year load limits associated with this outfall included in the current Registration List under registration number VAN040086, enforceable under the General VPDES Watershed Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Watershed in Virginia.
- d. Effluent samples shall be collected at the outlet of the New Ash Pond.

B. OTHER REQUIREMENTS OR SPECIAL CONDITIONS**1. Notification Levels**

The permittee shall notify the Department as soon as they know or have reason to believe:

- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

- (1) One hundred micrograms per liter (100 µg/L);
- (2) Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
- (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the Board.

- b. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

- (1) Five hundred micrograms per liter (500 µg/L);
- (2) One milligram per liter (1 mg/L) for antimony;
- (3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the Board.

2. Nutrient Reopener

The permit may be modified or, alternatively, revoked and reissued:

- a. To incorporate technology-based effluent concentration limitations for nutrients in conjunction with the installation of nutrient control technology, whether by new construction, expansion or upgrade; or
- b. To incorporate alternative nutrient limitations and/or monitoring requirements, should:
 - (1) the State Water Control Board adopt new nutrient standards for the water body receiving the discharge, including the Chesapeake Bay or its tributaries, or
 - (2) a future water quality regulation or statute require new or alternative nutrient control.

3. Materials Handling/Storage

Any and all product, materials, industrial wastes, and/or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation, and/or storage of raw or intermediate materials, final product, by-product or wastes, shall be handled, disposed of, and/or stored in such a manner and consistent with Best Management Practices, so as not to permit a discharge of such product, materials, industrial wastes, and/or other wastes to State waters, except as expressly authorized.

4. Discharge of Chlorine in Cooling Water

Total Residual Chlorine (TRC) may not be discharged from any single generating unit for more than two hours per day unless the discharger demonstrates to the permitting authority that discharge for more than two hours is required for macroinvertebrate control. Simultaneous multi-unit chlorination is permitted.

5. Operation and Maintenance Manual Requirement

The permittee shall maintain a current Operations and Maintenance (O&M) Manual for the treatment works that is in accordance with Virginia Pollutant Discharge Elimination System Regulations, 9VAC25-31.

The O&M Manual and subsequent revisions shall include the manual effective date and meet Part II.K.2 and Part II.K.4 Signatory Requirements of the permit. Any changes in the practices and procedures followed by the permittee shall be documented in the O&M Manual within 90 days of the effective date of the changes. The permittee shall operate the treatment works in accordance with the O&M Manual and shall make the O&M manual available to Department personnel for review during facility inspections. Within 30 days of a request by DEQ, the current O&M Manual shall be submitted to the DEQ Regional Office for review and approval.

The O&M manual shall detail the practices and procedures which will be followed to ensure compliance with the requirements of this permit. This manual shall include, but not necessarily be limited to, the following items, as appropriate:

- a. Permitted outfall locations and techniques to be employed in the collection, preservation, and analysis of effluent, storm water and sludge samples;
- b. Procedures for measuring and recording the duration and volume of treated wastewater discharged;
- c. Discussion of Best Management Practices, if applicable;
- d. Procedures for handling, storing, and disposing of all wastes, fluids, and pollutants characterized in Part I.B.3 that will prevent these materials from reaching state waters. List type and quantity of wastes, fluids, and pollutants (e.g. chemicals) stored at this facility;
- e. Discussion of treatment works design, treatment works operation, routine preventative maintenance of units within the treatment works, critical spare parts inventory and record keeping;
- f. Plan for the management and/or disposal of waste solids and residues;
- g. Hours of operation and staffing requirements for the plant to ensure effective operation of the treatment works and maintain permit compliance;
- h. List of facility, local and state emergency contacts; and,
- i. Procedures for reporting and responding to any spills/overflows/treatment works upsets.

6. Discharge of Tank Bottom Waters

There shall be no discharge of tank bottom waters from bulk fuel oil or waste oil storage facilities.

7. Ground Water Monitoring

a. New Ash Pond, Old Ash Pond and Metals Cleaning Pond:

The permittee shall continue sampling in accordance with the ground water monitoring plan dated September 2001, approved by letter dated October 5, 2001, and modification approved by letter dated November 15, 2001. The approved plan is an enforceable part of the permit. Any changes to the plan must be submitted for approval to the Piedmont Regional Office.

If monitoring results indicate that any unit has contaminated the ground water, the permittee shall submit a plan and schedule for corrective action within 60 days of being notified by the regional office. The plan shall set forth the steps to be taken by the permittee to adequately address the contamination source. The plan may include a schedule for risk analysis. Once approved, this plan and schedule shall be incorporated into the permit by reference and become enforceable parts of this permit.

b. Old Ash Pond:

Phase I of a Groundwater Quality and Risk Assessment Report dated March 22, 2012 was approved by letter dated February 12, 2013. Within 180 days of the effective date of this permit, the permittee shall submit Phase II of the Report for review and approval. Phase II shall propose groundwater action levels for contaminants identified in the Revised Groundwater Quality and Risk Assessment Report dated March 22, 2012. The submittal shall include action to be taken by the permittee if the proposed action levels are exceeded. Within 60 days of department approval of the action levels, the permittee shall submit a revised Groundwater Monitoring Plan (GWMP) for approval. Once approved, the revised GWMP shall be incorporated in to the permit by reference and become an enforceable part of this permit.

c. Metals Cleaning Pond:

Within one year of the effective date of this permit, the permittee shall submit for approval a Groundwater Quality and Risk Assessment Report addressing chloride in the groundwater adjacent to the Metals Cleaning Pond. The report shall include the following:

- i. Assessment of the source of chloride.
- ii. Assessment of the spatial extent and concentration of chloride in the groundwater.
- iii. Identification of both human health and environmental receptors and an assessment of the risk to each receptor.

Following review and approval of the Groundwater Quality and Risk Assessment Report, a Corrective Action Plan may be required by the department. The plan shall be due within 180 days of being notified by the Department. The plan shall set forth the steps to be taken by the permittee to ensure that the contamination source is adequately addressed pursuant to the Groundwater Quality and Risk Assessment Report. Once approved, this plan shall be incorporated into the permit by reference and become an enforceable part of this permit.

8. Closure Plan for New Ash Pond

By letter dated September 12, 2003, the Department of Environmental Quality approved a revised closure plan for the Upper (East) Ash Pond (also known as the New Ash Pond). The approved plan consists of a Revised Closure Plan dated September 2003, a Revised Phasing Plan dated May 2003, and a Revised Construction Quality Assurance Plan, dated May 2003. Closure of the New Ash Pond shall be accomplished in accordance with a closure plan approved by the Department of Environmental Quality.

9. Discharge of Polychlorinated Biphenyl Compounds

There shall be no discharge of polychlorinated biphenyl compounds (PCBs) that originate from this source in amounts equal to or greater than that detectable by EPA test methods specified in Federal Register 40 CFR Part 136 Guidelines for Establishing Test Procedures for the Analysis of Pollutants.

10. Discharge of Debris from Trash Racks

Debris collected on the intake trash racks shall not be returned to the waterway.

11. Discharges of Uncontaminated River Water

The following discharges shall not contain any process wastewater:

- a. The occasional pumping of river water from the intake screen wells to permit access for maintenance.
- b. Discharges associated with the routine testing of the fire fighting system involving withdrawal and direct return of water from the river.
- c. The discharge of river water from one sump pump each in the condenser cooling water intake pump rooms for Units 7 and 8.
- d. Intake screen backwash.

12. Discharge of Fly Ash Transport Water from Units 7 & 8

There shall be no discharge of fly ash transport water from Units 7 and 8.

13. Licensed Operator Requirement

The permittee shall employ or contract at least one Class II licensed wastewater works operator for the facility. The license shall be issued in accordance with Title 54.1 of the Code of Virginia and the regulations for the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals. The permittee shall notify the Department in writing whenever he is not complying, or has grounds for anticipating he will not comply with this requirement. The notification shall include a statement of reasons and a prompt schedule for achieving compliance.

14. Compliance Reporting

- a. The quantification levels (QL) shall be less than or equal to the following concentrations:

<u>Effluent Characteristic</u>	<u>Quantification Level</u>
TSS	1.0 mg/L
Ammonia, as N	0.20 mg/L
Total Residual Chlorine	0.10 mg/L
Total Petroleum Hydrocarbons	5.0 mg/L
Oil & Grease	5.0 mg/L
Total Recoverable Copper	0.4 mg/L
Total Recoverable Iron	0.4 mg/L

The QL is defined as the lowest concentration used to calibrate a measurement system in accordance with the procedures published for the method. It is the responsibility of the permittee to ensure that proper quality assurance/quality control (QA/QC) protocols are followed during the sampling and analytical procedures. QA/QC information shall be documented to confirm that appropriate analytical procedures have been used and the required QLs have been attained. The permittee shall use any method in accordance with Part II A of this permit.

- b. **Monthly Average:** Compliance with the monthly average limitations and/or reporting requirements for the parameters listed in subsection a. of this permit condition shall be determined as follows: All concentration data below the QL used for the analysis (QL must be less than or equal to the QL listed in a. above) shall be treated as zero. All concentration data equal to or above the QL used for the analysis (QL must be less than or equal to the QL listed in a. above) shall be treated as it is reported. An arithmetic average shall be calculated using all reported data for the month, including the defined zeros. This arithmetic average shall be reported on the Discharge Monitoring Report (DMR) as calculated. If all data are below the QL used for the analysis (QL must be less than or equal to the QL listed in a. above), then the average shall be reported as "<QL". If reporting for quantity is required on the DMR and the reported monthly average concentration is <QL, then report "<QL" for the quantity. Otherwise use the reported concentration data (including the defined zeros) and flow data for each sample day to determine the daily quantity and report the monthly average of the calculated daily quantities. For monitoring frequencies encompassing multiple months, the monthly average value to be reported on the DMR shall be the maximum of the arithmetic monthly averages calculated for each calendar month during the monitoring period.

Daily Maximum: Compliance with the daily maximum limitations and/or reporting requirements for the parameters listed in subsection a. of this permit condition shall be determined as follows: All concentration data below the QL used for the analysis (QL must be less than or equal to the QL listed in a. above) shall be treated as zero. All concentration data equal to or above the QL used for the analysis (QL must be less than or equal to the QL listed in a. above) shall be treated as reported. An arithmetic average shall be calculated using all reported data, including the defined zeros, collected within each day during the reporting month. The maximum value of these daily averages thus determined shall be reported on the DMR as the Daily Maximum. If all data are below the QL used for the analysis (QL must be less than or equal to the QL listed in a. above), then the maximum value of the daily averages shall be reported as "<QL". If reporting for quantity is required on the DMR and the reported daily maximum concentration is <QL, then report "<QL" for the quantity. Otherwise use the reported daily average concentrations (including the defined zeros) and corresponding daily flows to determine daily average quantities and report the maximum of the daily average quantities during the reporting month. For monitoring frequencies encompassing multiple months, the daily maximum value to be reported on the DMR shall be the maximum of the arithmetic daily averages calculated for each calendar day during the monitoring period.

- c. Any single datum required shall be reported as "<QL" if it is less than the QL in section a. above. Otherwise the numerical value shall be reported.

- d. Significant Digits: The permittee shall report at least the same number of significant digits as the permit limit for a given parameter. Regardless of the rounding convention used by the permittee (i.e., 5 always rounding up or to the nearest even number), the permittee shall use the convention consistently, and shall ensure that consulting laboratories employed by the permittee use the same convention.

15. TMDL Reopener

This permit shall be modified or alternatively revoked and reissued if any approved wasteload allocation procedure, pursuant to Section 303(d) of the Clean Water Act, imposes wasteload allocations, limits or conditions on the facility that are not consistent with the permit requirements.

16. Treatment Works Closure Plan

If the permittee plans an expansion or upgrade to replace the existing treatment works, or if the facility is permanently closed, the permittee shall submit to the DEQ Regional Office a closure plan for the existing treatment works. The plan shall address the following information as a minimum: Verification of elimination of sources and/or alternate treatment scheme; treatment, removal and final disposition of residual wastewater and solids; removal/demolition/disposal of structures, equipment, piping and appurtenances; site grading, and erosion and sediment control; restoration of site vegetation; access control; fill materials; and proposed land use (post-closure) of the site. The plan should contain proposed dates for beginning and completion of the work. The plan must be approved by the DEQ prior to implementation. Once approved, the plan shall become an enforceable part of this permit and closure shall be implemented in accordance with the approved plan. No later than 14 calendar days following closure completion, the permittee shall submit to the DEQ Piedmont Regional Office written notification of the closure completion date and a certification of closure in accordance with the approved plan.

17. Whole Effluent Toxicity (WET) Testing Program

a. Outfalls 001, 002, and 003:

- (1) In accordance with the schedule in I.B.17.d below, the permittee shall perform annual toxicity testing on Outfalls 001, 002, and 003 using flow-proportioned composite samples for the duration of the permit.

The acute test to use is:

48 Hour Static Acute test using *Ceriodaphnia dubia*

These acute tests shall be conducted using 5 geometric dilutions of effluent with a minimum of 4 replicates, with 5 organisms in each. The NOAEC (No Observed Adverse Effect Concentration), as determined by hypothesis testing, shall be reported. The LC₅₀ should also be determined and noted on the submitted report. Tests in which the control survival is less than 90% are not acceptable.

The chronic test to use is:

Chronic 3-Brood Survival and Reproduction Static Renewal Test using *Ceriodaphnia dubia*

These chronic tests shall be conducted in such a manner and at sufficient dilutions (minimum of five dilutions, derived geometrically) to determine the "No Observed Effect Concentration" (NOEC) for survival and reproduction. Results which cannot be quantified (i.e., a "less than" NOEC value) are not acceptable, and a retest will have to be performed. A retest of a non-acceptable test must be performed during the same compliance period as the test it is replacing. Express the test NOEC as TU_c (Chronic Toxicity Units), by dividing 100/NOEC. The LC₅₀ at 48 hours and the IC₂₅ shall also be reported.

The permittee may provide additional samples to address data variability; these data shall be reported and may be included in the evaluation of effluent toxicity. Test procedures and reporting shall be in accordance with the WET testing methods cited in 40 CFR 136.3.

- (2) The test dilutions shall be able to determine compliance with the following endpoints:

(a) Acute tests:

Outfall 001	NOAEC = 100% effluent
Outfall 002	NOAEC = 100% effluent
Outfall 003	NOAEC = 100% effluent

(b) Chronic tests:

Outfall 001	NOEC \geq 17% effluent equivalent to a TU_c of 5.9
Outfall 002	NOEC \geq 17% effluent equivalent to a TU_c of 5.9
Outfall 003	NOEC \geq 69% effluent equivalent to a TU_c of 1.44

- (3) The test data for each outfall will be evaluated statistically by DEQ for reasonable potential at the conclusion of the test period. The data may be evaluated sooner if requested by the permittee, or if toxicity has been noted. Should DEQ evaluation of the data indicate that a limit is needed, the permit may be modified or, alternatively, revoked and reissued to include a WET limit and compliance schedule for that outfall. Following written notification from DEQ of the need for including a WET limitation, the toxicity tests of Part I.B.17.a.(1) for that outfall may be discontinued. The permit may be modified or revoked and reissued to include pollutant specific limits in lieu of a WET limit should it be demonstrated that toxicity is due to specific parameters. The pollutant specific limits must control the toxicity of the effluent.

b. Outfall 004 – Chronic WET Limit Testing:

- (1) The chronic tests required in Part I.A.4 of this permit to meet the limit of an NOEC \geq 2%, equivalent to TU_c of 50 shall be Chronic 3-Brood Static Renewal Survival and Reproduction Tests using *Ceriodaphnia dubia* conducted in such a manner and at sufficient dilutions (minimum of five dilutions, derived geometrically) to determine the "No Observed Effect Concentration" (NOEC) for survival and reproduction. The test endpoint (limit) shall be represented by a dilution, and if other than 100%, shall be bracketed by at least one dilution above and one dilution below it. Results which cannot be determined (i.e., a "less than" NOEC value) are not acceptable, and a retest shall be performed. A retest of a non-acceptable test must be performed during the same compliance period as the test it is replacing. For reporting on the Discharge Monitoring Report (DMR), the NOEC is to be expressed in Chronic Toxicity Units (TU_c), which is obtained by dividing 100 by the test NOEC. The LC_{50} at 48 hours and the IC_{25} shall also be reported.
- (2) One copy of the toxicity test report shall be submitted to the Piedmont Regional Office in accordance with the reporting schedule in Part I.B.17.d below. Test procedures and reporting shall be in accordance with the WET testing methods cited in 40 CFR 136.3.
- (3) The permit may be modified or revoked and reissued to include pollutant specific limits in lieu of a WET limit should it be demonstrated that toxicity is due to specific parameters. The pollutant specific limits must control the toxicity of the effluent.
- (4) Frequency of Testing
Quarterly testing is required as indicated in Part I.A.4 of this permit, beginning in the calendar quarter following the effective date of this permit.

c. Outfall 005:

- (1) In accordance with the schedule in I.B.17.d below, the permittee shall perform acute and chronic toxicity tests of final effluent at Outfall 005. Grab samples shall be collected each time a discharge occurs, but at least 30 days apart, until four data sets have been collected. Chronic tests are required only if discharge occurs over five consecutive days. The permittee shall maintain a record of the dates that a discharge occurs at Outfall 005 and provide it to the Department upon request.

The acute tests shall be:

48 Hour Static Acute test using *Ceriodaphnia dubia*
48 Hour Static Acute test using *Pimephales promelas*

These acute tests shall be performed with a minimum of 5 dilutions, derived geometrically, for calculation of a valid LC₅₀.

The chronic tests shall be:

Chronic 3-Brood Survival and Reproduction Static Renewal Test using *Ceriodaphnia dubia*
Chronic 7-day Survival and Growth Static Renewal test using *Pimephales promelas*

These chronic tests shall be conducted in such a manner and at sufficient dilutions (minimum of five dilutions, derived geometrically) to determine the "No Observed Effect Concentration" (NOEC) for survival and reproduction or growth. The LC₅₀ at 48 hours and the IC₂₅ shall also be reported. Results which cannot be quantified (i.e., a "less than" NOEC value) are not acceptable, and a retest shall be performed. The retest of a nonacceptable test shall be performed during the same compliance period as the test it is replacing. Express the test LC₅₀ as TU_a (Acute Toxicity Units), by dividing 100/LC₅₀. Express the test NOEC as TU_c (Chronic Toxicity Units), by dividing 100/NOEC. The LC₅₀ at 48 hours and the IC₂₅ shall also be reported.

- (2) The test dilutions shall be able to determine compliance with the following endpoints:
 - (a) Acute tests: **LC₅₀ ≥ 7%** effluent, equivalent to a TU_a of ≤ 14.28.
 - (b) Chronic tests: **NOEC ≥ 1%** effluent, equivalent to a TU_c of ≤ 100
- (3) The permittee may provide additional samples to address data variability. These data shall be reported and may be included in the evaluation of effluent toxicity. Test procedures and reporting shall be in accordance with the WET testing methods cited in 40 CFR 136.3
- (4) The test data will be evaluated statistically by DEQ for reasonable potential at the conclusion of the test period. The data may be evaluated sooner if requested by the permittee, or if toxicity has been noted. Should DEQ evaluation of the data indicate that a limit is needed, the permit may be modified or, alternatively, revoked and reissued to include a WET limit and compliance schedule. Following written notification from DEQ of the need for including a WET limitation, the toxicity tests of Part I.B.17.a.(1) may be discontinued. The permit may be modified or revoked and reissued to include pollutant specific limits should it be demonstrated that toxicity is due to specific parameters. The pollutant specific limits must control the toxicity of the effluent.

If evaluation of the data indicates that a limitation is not needed, annual acute and chronic testing shall commence in accordance with the remaining schedule in I.B.17.d below.

d. **Reporting Schedule:**

The permittee shall report the results of the toxicity testing on Outfalls 001, 002, 003 and 005 as appropriate, and supply to the Piedmont Regional Office one copy of the toxicity test reports specified in this WET Monitoring Program. The compliance period in which each test shall be performed is established as annual (consecutive 12 month) periods based on the effective date of the permit. Reports shall be submitted no later than the 10th of the month following the end of each compliance period.

Reporting for the Outfall 004 WET limitation shall be conducted quarterly and reported on the DMR as required in Part I.A.4 of this permit. One copy of the toxicity test report associated with each test, shall be submitted in hard copy or by email concurrent with the Discharge Monitoring Report (DMR) on which the test result is reported.

18. **Oil Storage Ground Water Monitoring Reopener**

As this facility currently manages ground water in the bulk fuel oil storage area in accordance with 9 VAC 25-91-10 et seq., Facility and Aboveground Storage Tank (AST) Regulation, this permit does not presently impose ground water monitoring requirements in that storage area. However, this permit may be modified, or alternatively, revoked and reissued to include ground water monitoring not required by the AST regulation.

19. **§316(b) Requirements**

As required by §316(b) of the Clean Water Act, the location, design, construction and capacity of the cooling water intake structures for the permitted facility shall reflect the best technology available (BTA) for minimizing adverse environmental impact. This permit may be reopened to address compliance with Clean Water Act §316(b) through requirements including but not limited to those specified in EPA regulations in 40 CFR Part 125, Subpart J when finalized.

20. **Water Quality Criteria Reopener**

This permit may be modified, or alternatively, revoked and reissued to incorporate appropriate temperature limitations if the Virginia Water Quality Standards are revised to include numeric standards addressing human health.

21. **CER**

Prior to constructing any wastewater treatment works, the permittee shall submit a Concept Engineering Report (CER) to the DEQ Piedmont Regional Office. DEQ written approval shall be secured prior to constructing any wastewater treatment works. The permittee shall construct the wastewater treatment works in accordance with the approved CER. No later than 14 days following completion of construction of any project for which a CER has been approved, written notification shall be submitted to the DEQ Piedmont Regional Office certifying that, based on an inspection of the project, construction was completed in accordance with the approved CER. The written notification shall be certified by a professional engineer licensed in the Commonwealth of Virginia or signed in accordance with Part II.K of this permit. The installed wastewater treatment works shall be operated to achieve design treatment and effluent concentrations. Approval by the Department of Environmental Quality does not relieve the owner of the responsibility for the correction of design and/or operational deficiencies. Noncompliance with the CER shall be deemed a violation of this permit.

Upon approval of a CER for the installation of nutrient removal technology, DEQ staff shall initiate modification, or alternatively, revocation and reissuance, of this permit to include annual concentration limits based on the technology proposed in the CER. Upon completion of construction in accordance with a CER that has been approved by the DEQ Piedmont Regional Office, any nutrient removal facilities installed shall be operated to achieve design effluent Total Nitrogen and Total Phosphorus concentrations.

CONDITIONS APPLICABLE TO ALL VPDES PERMITS

A. Monitoring

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.
2. Monitoring shall be conducted according to procedures approved under Title 40 Code of Federal Regulations Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.
3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will insure accuracy of measurements.
4. Samples taken as required by this permit shall be analyzed in accordance with 1VAC30-45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46, Accreditation for Commercial Environmental Laboratories.

B. Records

1. Records of monitoring information shall include:
 - a. The date, exact place, and time of sampling or measurements;
 - b. The individual(s) who performed the sampling or measurements;
 - c. The date(s) and time(s) analyses were performed;
 - d. The individual(s) who performed the analyses;
 - e. The analytical techniques or methods used; and
 - f. The results of such analyses.
2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the Board.

C. Reporting Monitoring Results

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to:

**DEQ - Piedmont Regional Office
4949-A Cox Road
Glen Allen, VA 23060**

2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the Department.
3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under Title 40 of the Code of Federal Regulations Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the Department.

4. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to Provide Information

The permittee shall furnish to the Department, within a reasonable time, any information which the Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

E. Compliance Schedule Reports

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized Discharges

Except in compliance with this permit, or another permit issued by the Board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or
2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

G. Reports of Unauthorized Discharges

Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II F; or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II F, shall notify the Department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the Department, within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and
8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit. Discharges reportable to the Department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of Unusual or Extraordinary Discharges

If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the Department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse affects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the Department within five days of discovery of the discharge in accordance with Part II I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the treatment works; and
4. Flooding or other acts of nature.

I. Reports of Noncompliance

The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this paragraph:
 - a. Any unanticipated bypass; and
 - b. Any upset which causes a discharge to surface waters.
2. A written report shall be submitted within 5 days and shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
 - c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Board may waive the written report on a case-by-case basis for reports of noncompliance under Part II I 1 if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.
3. The permittee shall report all instances of noncompliance not reported under Parts II I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part II I 2.

NOTE: The immediate (within 24 hours) reports required in Parts II G, H and I may be made to the Department's Regional Office at (804) 527-5020 or fax (804) 527-5106. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24 hour telephone service at 1-800-468-8892.

J. Notice of Planned Changes

1. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
 - a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:
 - (1) After promulgation of standards of performance under Section 306 of Clean Water Act which are applicable to such source; or
 - (2) After proposal of standards of performance in accordance with Section 306 of Clean Water Act which are applicable to such source, but only if the standards are promulgated in accordance with Section 306 within 120 days of their proposal;

- b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or
 - c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
2. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

K. Signatory Requirements

1. Applications. All permit applications shall be signed as follows:
- a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
 - b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
 - c. For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.
2. Reports, etc. All reports required by permits, and other information requested by the Board shall be signed by a person described in Part II K 1, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
- a. The authorization is made in writing by a person described in Part II K 1;
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and
 - c. The written authorization is submitted to the Department.
3. Changes to authorization. If an authorization under Part II K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new

authorization satisfying the requirements of Part II K 2 shall be submitted to the Department prior to or together with any reports, or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Parts II K 1 or 2 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to Comply

The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit. All permittees with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Board. The Board shall not grant permission for applications to be submitted later than the expiration date of the existing permit.

N. Effect of a Permit

This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State Law

Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by Section 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Part II U), and "upset" (Part II V) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Sections 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant

performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of Solids or Sludges

Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to Halt or Reduce Activity not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts II U 2 and U 3.
2. Notice
 - a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted, if possible at least ten days before the date of the bypass.
 - b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part II I.
3. Prohibition of bypass.
 - a. Bypass is prohibited, and the Board may take enforcement action against a permittee for bypass, unless:
 - (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (3) The permittee submitted notices as required under Part II U 2.
 - b. The Board may approve an anticipated bypass, after considering its adverse effects, if the Board determines that it will meet the three conditions listed above in Part II U 3 a.

V. Upset

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part II V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.
2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that the permittee can identify the cause(s) of the upset;

- b. The permitted facility was at the time being properly operated;
 - c. The permittee submitted notice of the upset as required in Part II I; and
 - d. The permittee complied with any remedial measures required under Part II S.
3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

- 1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- 3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- 4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit Actions

Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits

- 1. Permits are not transferable to any person except after notice to the Department. Except as provided in Part II Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the Clean Water Act.
- 2. As an alternative to transfers under Part II Y 1, this permit may be automatically transferred to a new permittee if:
 - a. The current permittee notifies the Department at least 30 days in advance of the proposed transfer of the title to the facility or property;
 - b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
 - c. The Board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part II Y 2 b.

Z. Severability

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.